

Serial Number 09/766,170

ETH1626

REMARKS

Claims 1-23 and 31-38 are pending in this application. Claims 1, 17, 21 and 38 are amended. Claims 24-30 were previously cancelled. Applicant thanks the Examiner for indicating that claims 23 and 32-37 are allowed and that claims 3-11, 14-16, 18, 19, 21 and 22 would be allowable if rewritten in independent form to include the limitations of any intervening dependent claims, and in the case of claims 21 and 22, rewritten to overcome the 112 rejection.

The Examiner rejected claims 17, 20 and 21 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to provide antecedent basis for "the tubular member". Applicant has amended claims 17 and 20 to provide the appropriate antecedent basis, and request that the Examiner withdraw the rejection.

The Examiner rejected claims 1, 2, 12, 13, 16, 17, 20, 31 and 38 under 35 U.S.C. § 102(e) as being anticipated by Dereume et al. (U.S. Patent No. 5,723,004). Applicant respectfully traverses this rejection.

Dereume does not teach or suggest the invention claimed in independent claims 1 or 38 or the claims that depend from claim 1. Dereume discloses stent graft devices designed to be delivered endoluminally within a vessel and implanted entirely within the vessel. The Dereume device is used to treat abdominal aorta aneurysms (AAAs), for example.

Applicant has amended claims 1 and 38, however, to further distinguish from the device disclosed in Dereume. As amended, independent claims 1 and 38 each claim, among other elements: a graft vessel having an end portion and a proximal portion, and a coupling member attached to the graft vessel, and wherein *the proximal portion of the graft vessel extends outside the opening of the target vessel* when the coupling member is in its expanded state. Thus, unlike Dereume where the graft vessel is contained entirely within the target vessel (or an adjacent vessel) when the coupling member is expanded, the claimed invention includes a graft vessel that has a proximal portion that extends outside of the opening of the target vessel when the coupling member is in the expanded state. Applicant submits that the claims, as amended, define over Dereume and request the Examiner to withdraw the rejections under 35 U.S.C. § 102(e), and the rejection to claim 16 under 35 U.S.C. § 103.

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The Examiner rejected claims 1, 12 and 38 under 35 U.S.C. § 102(e) as being anticipated by PCT Publication No. Suyker et al. (WO 99/21491). Applicant respectfully traverses this rejection.

This application is a divisional application that claims priority to U.S. Patent No. 6,176,864, which was filed on March 9, 1998. Suyker does not qualify as 102(e) prior art to this application as Suyker's International Filing Date is October 22, 1998, a date that is later than the priority date of this application. As a result, Applicant requests the Examiner to withdraw the rejection.

The Examiner provided an initialed Form 1449 indicating that he considered the references cited in the IDS filed on May 9, 2004. The initialed Form 1449 of the IDS filed with the RCE on October 16, 2003, however, has not been received by Applicants. PAIR indicates that the IDS was received on October 20, 2003. If the Examiner needs another copy of the IDS and Form 1449, Applicant will fax those documents. If the Examiner has a copy of the IDS, he is requested to provide Applicant with an initialed copy.

Applicants hereby grant the Commissioner permission to charge any fee required during the prosecution of this application to the undersigned's deposit account 10-0750/ETH1626/BST, including an extension of time to timely respond to the above cited Notice.

The Examiner is requested to telephone the undersigned if a discussion would further the prosecution of the pending claims.

Respectfully submitted,

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